

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
vs.) **Case No. CR-22-114-F**
)
ROBERT LEE HARRISON, JR.,)
)
 Defendant.)

**DEFENDANT HARRISON'S SENTENCING MEMORANDUM
AND MOTION FOR DOWNWARD VARIANCE**

Pursuant to 18 U.S.C. §3553(a) and *United States v. Booker*, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621 (2005), the Defendant, Robert Harrison, through his attorney of record, Craig M. Hoehns, submits this sentencing memorandum requesting a sentence below the advisory guideline range. Under the circumstances of this case, such a sentence would be sufficient, but no greater than necessary to comply with the statutory directives set forth in 18 U.S.C. § 3553(a).

I. The Presentence Investigation Report

Mr. Harrison was charged in a four (4) count indictment alleging: (1) Felon in Possession of Ammunition; (2) Carjacking; (3) Kidnapping; and (4) Use of a Firearm During and In Relation to a Crime of Violence. He was convicted on those counts at jury trial.

Following the jury trial, the final presentence investigation report was completed on October 2, 2023. (Doc. 69). The presentence investigation report calculates the total

offense level in this matter at 41 and the criminal history category as III, resulting in an advisory guideline of 360 months of imprisonment. (Doc. 69, ¶136).

II. Relevant Offender Characteristics

Mr. Harrison is now 50 years old. He is a hard worker, was a victim of child abuse and is the son of a murdered father. (Doc. 69, ¶107). That trauma remains unresolved. His trauma has made him a very protective and loving father who would do anything to protect his children should he believe them to be in harm's way. Mental health and substance use have been issues in the past; nonetheless, he still has the prospect of good, meaningful years in the future.

The purposes of sentencing can be respected with a sentence below the guidelines. It is well-documented and studied that the risk of recidivism reduces significantly with age. (See, e.g., United States Sentencing Commission Report "The Effects of Aging on Recidivism Among Federal Offenders, available at: <https://www.ussc.gov/research/research-reports/effects-aging-recidivism-among-federal-offenders>). A sentence below the guidelines could provide adequate deterrence to criminal conduct and protect the public from further potential crimes by the defendant.

III. Execution of Sentence

The final presentence investigation report finds that conduct as alleged in Oklahoma County, Oklahoma District Court case numbers CF-2021-2786, CF-2022-60, and CF-2022-1392 are related to the instant case. (Doc. 69, ¶137). Those matters

are still pending and have not been dismissed. United States Sentencing Guideline §5G1.3(c) directs that if “a state term of imprisonment is anticipated to result from another offense that is relevant conduct to the instant offense of conviction... the sentence for the instant offense shall be imposed to run concurrently to the anticipated term of imprisonment.” As such, the guidelines direct this Court to order the sentence in this matter to run concurrent with the anticipated sentences in Oklahoma County, Oklahoma District Court case numbers CF-2021-2786, CF-2022-60, and CF-2022-1392. Defendant respectfully requests the Court follow this guideline and order this matter to run concurrent with the anticipated sentences in those matters.

IV. Programs in the Bureau of Prisons

To the extent that he is eligible, the Defendant requests this Court recommend that he participate in the Residential Drug Abuse Program (RDAP) while in the custody of the Bureau of Prisons.

V. Placement

Mr. Harrison respectfully requests the Court to make a recommendation of placement at FCI El Reno.

VI. Conclusion

This Court can sentence Mr. Harrison below the guidelines while complying with the purposes of sentencing. The public can be protected through the drug counseling such RDAP, mental health counseling, and the re-entry procedures of the Bureau of

Prisons. Counsel prays this Court impose a sentence below the advisory guidelines as it will comply with the purposes of sentencing.

In consideration of all the information the Court has before it in this memorandum and the presentence investigation report, the defense respectfully requests Your Honor impose a fair sentence below the advisory guidelines which will accomplish the objectives and needs of sentencing.

Respectfully submitted,

s/ Craig M. Hoehns
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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2023, I electronically transmitted the attached document to the Clerk of Court using the Electronic Case Filing System for filing. Based on the records currently on file in this case, the Clerk of Court will transmit a Notice of Electronic Filing to those registered participants of the ECF System.

s/ Craig M. Hoehns
Craig M. Hoehns